

Message Text

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ACTION EB-08

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FM AMEMBASSY MOSCOW

TO SECSTATE WASHDC PRIORITY 5563

C O N F I D E N T I A L SECTION 1 OF 3 MOSCOW 4065

E.O. 11652: GDS

TAGS: EAIR, UR, US

SUBJECT: US-USSR CIVIL AVIATION TALKS

SUMMARY: U.S. AND USSR DELEGATIONS HELD EXTENSIVE TALKS MARCH 25. SOVIETS REJECTED ALL PROPOSALS WHICH WOULD HAVE ADDRESSED THE IMBALANCE QUESTION. CHARTER ISSUE IS STILL UNCLEAR AS SOVIETS OFTEN REMINDED USDEL THAT UNDERSTANDING EXPIRES MARCH 31. USDEL RESPONSE WAS THAT MAIN QUESTION IS WHETHER, IN ABSENCE OF AGREEMENT, US WILLING TO MAINTAIN STATUS QUO ON SCHEDULED FREQUENCIES. SOVIETS ALSO REFUSED TO ADDRESS ISSUE OF ADHERENCE TO ARTICLE 14 OF CIVIL AIR TRANSPORT AGREEMENT. WE SEE ALMOST NO POSSIBILITY OF REACHING AN AGREEMENT THIS ROUND. END SUMMARY.

1. IN MORNING SESSION OF TALKS, MARCH 25, SOVIETS PROPOSED REVISION OF PROVISIO CONCERNING AIRLINE WITH SMALLER SHARE OF CARRIAGE TO SAY THAT THE AIRLINES SHOULD MEET REGULARLY TO ANALYZE THEIR OPERATIONS AND TAKE MEASURES TO ENSURE INCREASED CARRIAGE WITH THE PRESCRIBED LIMITS. IF THE AIRLINE WITH THE LESSER CARRIAGE DOES NOT MEET THE PRESCRIBED INCREASES IN CARRIAGE, THE SOVIETS PROPOSED THAT THE OTHER AIRLINE HAVE THE RIGHT TO EXCEED ITS LIMITATION BY THE NUMBER OF PERCENTAGE POINTS THE FIRST AIRLINE FAILED TO INCREASE ITS CARRIAGE. SOVIETS ALSO SAID THAT USE OF B-747S WOULD BE PRECLUDED IF AIRLINE CARRYING EXCESS TRAFFIC WERE PENALIZED TWO FREQUENCIES
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INSTEAD OF ONE.

2. USDEL NOTED THAT EXCEPT FOR QUESTIONS RE SUMMER 1977, THERE WAS AGREEMENT ON FREQUENCY LEVEL. US INSISTED TEXT REFLECT NEED TO RESOLVE IMBALANCE, DESIRE TO EXPAND DIRECT AIR SERVICES AS WELL AS TO INCREASE TRAFFIC ON THOSE SERVICES. SOVIETS IN PRINCIPLE AGREED TO TO WITHDRAW ALL TICKETING

RESTRICTIONS IF US RECIPROCATES BUT USDEL NOTED NEED FOR SPECIFIC LANGUAGE.

3. RE CHARTER UNDERSTANDING, SOVIETS AGREED TO ELIMINATE 40 PERCENT LIMITATION BUT WANTED TO WRITE IN IDEA THAT CHARTERS WULD BE FLOWN ON A 50-50 BASIS. US COMMENTED THIS IS COVERED IN PHRASE "REASONABLE BALANCE OF BENEFITS" BUT SOVIETS WISH TO ADD THAT BOTH PARTIES WILL OPERATE AN EQUAL NUMBER OF CHARTERS, INCLUDE CONCEPT THAT CHARTERS SHOULD NOT DAMAGE SCHEDULED SERVICES.

4. IN AFTERNOON SESSION, USDEL PRESENTED FOLLOWING DRAFT RE FREQUENCY LEVELS: BEGIN TEXT: 5 (A) EACH DESIGNATED AIRLINE MAY OPERATE UP TO THE FOLLOWING NUMBER OF ROUND-TRIP FLIGHTS PER WEEK:

PERIOD	US AIRLINE ¹	SOVIET AIRLINE ¹
APRIL 24, 1977-OCTOBER 29, 1977	2	2
OCTOBER 30, 1977-APRIL 22, 1978	2	2
APRIL 23, 1978-OCTOBER 28, 1978	4	5
OCTOBER 29, 1978-APRIL --, 1979	2	2
APRIL --, 1979-OCTOBER --, 1979	4	5
OCTOBER --, 1979-APRIL --, 1980	2	2
APRIL --, 1980-OCTOBER --, 1980	6	7
OCTOBER --, 1980-APRIL --, 1981	2	2

(B) EACHE DESIGNATED AIRLINE MAY OPERATE UP TO THREE ROUND-TRIP FLIGHTS PER WEEK DURING WINTER SEASONS IF THEY SO MUTUALLY CONFIDENTIAL

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AGREE.

(C) THE DESIGNATED AIRLINE OF THE US MAY EXERCISE THE RIGHTS SPECIFIED IN PARAGRAPH 4 ABOVE ON ALL ITS FLIGHTS. THE DESIGNATED AIRLINE OF THE SOVIET UNION MAY EXERCISE THE RIGHTS SPECIFIED IN PARAGRAPH 4 ABOVE ON HALF OF ITS AUTHORIZED FLITHS WITH FRACTIONS ROUNDED TO THE NEXT WHOLE NUMBER.

¹ THESE FLIGHTS ARE EXPRESSED IN UNITS OF NARROW-BODIED AIRCRAFT. WIDE-BODIES AIRCRAFT MAY BE SUBSTITUTED AT THE OPTION OF THE AIRLINE ON A TWO-FOR-ONE BASIS. END TEXT. SOVIETS SAID AEROFLOT WANTS THREE FLIGHTS IN SUMMER 1977, TO WHICH USDEL RESPONDED THAT US CARRIER WILL OPERATE TWO, AND WILL CONSIDER WHETHER THE USSR SHOULD HAVE THREE.

5. USDEL ALSO PRESENTED REDRAFT OF PARA 8 OF FEB. 22 PROPOSAL WHICH FOLLOWS: BEGIN TEXT: 8. THE FOLLOWING ARRANGEMENTS ARE UNDERTAKEN IN ORDER TO ASSURE THAT THE BENEFITS RESULTING

FROM THE CIVIL AIR TRANSPORT AGREEMENT ARE OF EQUAL ADVANTAGE
TO EACH COUNTRY AND IN ORDER TO FOSTER THE EXPANSION OF
AIR TRAVEL AND THE DEVELOPMENT OF AIR SERVICES BY THE DESIGNATED
AIRLINES BETWEEN THE TWO COUNTRIES:

(A) THE NUMBER OF PASSENGERS THE DESIGNATED AIRLINE OF
ONE CONTRACTING PARTY PICKS UP AND DISCHARGES IN THE TERRITORY
OF THE OTHER CONTRACTING PARTY SHALL NOT EXCEED THE
NUMBER OF PASSENGERS PICKED UP AND DISCHARGED IN THE TERRITORY
OF THE FIRST CONTRACTING PARTY BY THE DESIGNATED AIRLINE OF
THE SECOND CONTRACTING PARTY BY MORE THAN ---- PERCENT
DURING THE TWELVE-MONTH PERIOD ENDING APRIL 22, 1978, BY
MORE THAN ---- PERCENT DURING THE TWELVE-MONTH PERIOD ENDING
APRIL ----, 1979, BY MORE THAN ---- PERCENT DURING THE
TWELVE-MONTHS PERIOD ENDING APRIL ----, 1980, AND BY MORE THAN
---- PERCENT DURING THE TWELVE-MONTH PERIOD ENDING
APRIL ----, 1981.

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(B) THE TWO GOVERNMENTS AND THE DESIGNATED AIRLINES
WILL TAKE STEPS TO FACILITATE THE CARRIAGE OF INCREASED
TRAFFIC, PARTICULARLY ON THE DESIGNATED AIRLINE HAVING
THE LESSER SHARE OF THE MARKET. TO THIS END, THE
GOVERNMENT OF THE USSR WILL MAKE ARRANGEMENTS WITH APPROPRIATE
SOVIET AGENCIES TO ASSURE NECESSARY ACCOMMODATIONS, DOCUMENT-
TION, AND OTHER TRAVEL ARRANGEMENTS FOR THE CARRIAGE OF
INCREASED TRAFFIC BY THE U.S. DESIGNATED AIRLINE BETWEEN THE
TWO COUNTRIES. FURTHERMORE, THE U.S. DESIGNATED AIRLINE, IN
COOPERATION WITH APPROPRIATE SOVIET AGENCIES, WILL USE ITS
BEST EFFORTS TO INCREASE THE NUMBER OF PASSENGERS PICKED UP
AND DISCHARGED IN THE SOVIET UNION BY ---- PERCENT DURING
THE TWELVE-MONTH PERIOD ENDING APRIL 22, 1978, ---- PERCENT
DURING THE TWELVE-MONTH PERIOD ENDING APRIL ----, 1979,
---- PERCENT DURING THE TWELVE-MONTH PERIOD ENDING APRIL

----, 1980, AND ---- PERCENT DURING THE TWELVE-MONTH PERIOD
ENDING APRIL ----, 1981, OVER THE LEVEL CARRIED IN 1976.

(C) THE DESIGNATED AIRLINES WILL REGULARLY EXCHANGE
INFORMATION REGARDING THE DEVELOPMENT OF TRAFFIC AS FORESEEN
IN PARAGRAPHS (A) AND (B) ABOVE.

(D) IF THE U.S. DESIGNATED AIRLINE DOES NOT ACHIEVE THE
INCREASE OF TRAFFIC FORESEEN IN PARAGRAPH (B) ABOVE, THE
TWO GOVERNMENTS WILL CONSULT, AT THE REQUEST OF EITHER,
TO CONSIDER THE SITUATION.

(E) IF DURING SUCH A TWELVE-MONTH PERIOD THE NUMBER
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OF FLIGHTS WHICH ONE DESIGNATED AIRLINE IS AUTHORIZED
TO OPERATE UNDER PARAGRAPH 5(A) ABOVE EXCEEDS THE NUMBER
OF FLIGHTS THAT AIRLINE ACTUALLY OPERATES BY A PERCENTAGE
GREATER THAN THE EQUIVALENT PERCENT FOR THE OTHER DESIGNATED
AIRLINE, THE VOLUME OF TRAFFIC THAT OTHER DESIGNATED AIRLINE
IS AUTHORIZED TO CARRY UNDER SUBPARAGRAPH (A) ABOVE SHALL
BE INCREASED BY A PERCENTAGE EQUAL TO ONE-HALF OF THE
DIFFERENCE BETWEEN THE TWO PERCENTAGES DESCRIBED ABOVE.
HOWEVER, IF THE DIFFERENCE BETWEEN THESE TWO PERCENTAGES
IS GREATER THAN ONE HUNDRED, THE PROVISIONS OF THIS PARA-
GRAPH AND OF PARAGRAPH 5 (A) ABOVE SHALL CEASE TO APPLY FOR
THE TWELVE-MONTH PERIOD IN QUESTION.

(F) SHOULD THE LEVEL OF CARRIAGE AUTHORIZED UNDER SUB-
PARAGRAPHS (A), (B), AND (E) ABOVE BE EXCEEDED BY THE
DESIGNATED AIRLINE OF ONE CONTRACTING PARTY DURING ONE
TWELVE-MONTH PERIOD, THE DESIGNATED AIRLINE OF THE OTHER
CONTRACTING PARTY MAY INCREASE THE NUMBER OF FREQUENCIES
ALLOWED FOR IT BY PARAGRAPH 5(A) ABOVE BY ONE ROUND-TRIP
FLIGHT PER WEEK FOR THE SUBSEQUENT TWELVE-MONTH PERIOD.
HOWEVER, IF THAT AIRLINE CHOOSES NOT TO OPERATE SUCH ADDI-
TIONAL FREQUENCIES, THE NUMBER OF FREQUENCIES ALLOWED BY
PARAGRAPH 5(A) ABOVE FOR THE AIRLINE WHICH HAS EXCEEDED
THE AUTHORIZED LEVEL OF CARRIAGE SHALL BE DECREASED BY TWO
ROUND-TRIP FLIGHTS PER WEEK FOR THE SUMMER SEASON OF THE
SUBSEQUENT TWELVE-MONTH PERIOD, AND THAT PARAGRAPH SHALL
BE DEEMED TO HAVE BEEN AMENDED TO REFLECT THE DECREASED
NUMBER OF FREQUENCIES ALLOWED. HOWEVER, IF A FREQUENCY
IS LOST UNDER THIS PROVISION AND THE LEVEL OF CARRIAGE
DETERMINED BY SUBPARAGRAPHS (A), (B), AND (E) ABOVE IS NOT
EXCEEDED DURING THE SUBSEQUENT TWELVE-MONTH PERIOD, THE
LOST FREQUENCY SHALL BE RESTORED AT THE END OF THAT PERIOD,
AND PARAGRAPH 5(A) SHALL BE DEEMED TO HAVE BEEN AMENDED
ACCORDINGLY. END TEXT.

6. FINALLY USDEL ORALLY PRESENTED LANGUAGE RE TICKETING
RESTRICTIONS. QUOTE: THE CONTRACTING PARTIES AGREE THAT
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THE PROVISIONS OF ARTICLE 14 OF THE CIVIL AIR TRANSPORT AGREEMENT ARE APPLICABLE EQUALLY TO THE AGREED SERVICES AND TO ANY OTHER SERVICES OF THE DESIGNATED AIRLINES. END QUOTE. THIS LANGUAGE, USDEL SAID, SHOULD BE CONFIRMED IN EXCHANGE OF DIPLOMATIC NOTES AND THE SPECIFIC MEANING SHOULD BE STATED IN A MEMORANDUM OF CONSULTATIONS.

7. SOVIETS COMPLAINED THAT PROVISIO WAS MISSING AND THAT ALL THE LIMITATIONS ARE ON AEROFLOT. USDEL RESPONDED THAT IN ORDER FOR SYSTEM TO DEVELOP US RECOGNIZES THERE MUST BE AN INCREASE IN TRAFFIC CARRIED BY THE AIRLINE WITH LESSER SHARE, IF US FELT INCREASES WERE WITHIN TOTAL CONTROL OF US CARRIER, THEN WE COULD PROBABLY ACCEPT SOVIET PROPOSAL. HOWEVER, IT IS NOT TOTALLY WITHIN THE CONTROL OF THE US TO INCREASE TRAFFIC SO IT IS NOT PROPER THAT US AIRLINES AUTOMATICALLY SUFFER PENALTIES. USDEL ALSO POINTED OUT PARA 8(D) WAS THE LINK THE SOVIET SIDE SEEKS, AND OFFERED TO INCREASE PERCENTAGES IN PARA 8(A) TO 100, 50, 30, AND 25 AS WELL AS TO ACCEPT SOVIET PROPOSAL FOR PERCENTAGE INCREASES, NAMELY 20, 35, 50, AND 65 IN PARA 8(B).

8. SOVIETS REJECTED THESE FIGURES AND STATED THEY WERE NOT IN A POSITION TO MAKE REFERENCES ARTICLE 14, DUE TO THE DIFFERENCE IN INTERPREATION OF THIS PROVISION THAT HAD BEEN EXCHANGED THROUGH DIPLOMATIC CHANNELS. SOVIETS SUGGESTED SIMPLE STATEMENT THAT RESTRICTIONS WERE MUTUALLY LIFTED. US RESPONDED THAT IN ORDER TO REACH AGREEMENT ON OTHER ISSUES, INTERPRETATION OF ARTICLE 14 MUST BE RESOLVED. IF THIS IS NOT ACCOMPLISHED, IMPLICATION IS THAT US AND USSR STILL HAVE DISAGREEMENT ON INTERPRETATION ARTICLE 14.

9. SOVIETS THEN TURNED TO CHARTERS AND SUGGESTED FOLLOWING LANGUAGE: QUOTE. THE OPERATION OF CHARTER SERVICES SHALL BE MADE ACCORDING TO THE PRINCIPLE OF THEIR EQUAL DISTRIBUTION BETWEEN THE AIRLINES OF THE CONTRACTING PARTIES, THAT IS 50 PERCENT FOR THE SOVIET AIRLINE AND 50 PERCENT FOR THE

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AMERICAN AIRLINE. END QUOTE. USDEL REJECTED THIS SINCE UNDER THIS FORMULATION THE SOVIETS WOULD UNDOUBTEDLY TRY TO DIVIDE CHARTER PROGRAMS CREATED BY US AIRLINES AND WANT TO GIVE AEROFLOT ONE-HALF OF OTHE BUSINESS.

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10. SOVIETS AT THIS POINT ANNOUNCED UNWILLINGNESS TO ACCEPT US FORMUAL FOR CORRECTING IMBALANCE AND SUBMITTED RUSSIAN TEXT WITH PROVISIO AND PERCENTAGE FIGURES FOR LIMITATIONS AND INCREASES EARLIER SUBMITTED.

11. US DEFERRED SUBSTANTIVE COMMENT AND EXPLAINED THAT, BECAUSE 1973 CHARTER UNDERSTANDING HAD RESULTED IN SOME TECHNICAL DIFFICULTIES, IT WAS DESIRABLE TO HAVE A NEW TEXT. US THEN PROPOSED TO SUBSTITUTE "WITHOUT COMMITMENT TO AN UNLIMITED NUMBER" FOR PHRASE "ON THE BASIS OF A REASONABLE BALANCE OF BENEFITS" AS WELL AS ELIMINATE WORD "DISCRIMINATION" WITH TERMS MORE COMFORTABLE TO THE SOVIET SIDE. SOVIETS ACCEPTED THESE MODIFICATIONS BUT ALSO WANTED TO ELIMINATE ALL REFERENCES TO CHARTERS INVOLVING THIRD COUNTRIES, A PHRASE WHICH HAD PURPOSEFULLY BEEN INCLUDED DUE TO PAST PROBLEMS IN THIS AREA. SOVIETS ALSO WANTED TO INSERT THEIR PREVIOUS LANGUAGE THAT CHARTERS SHOULD NOT BE DETRIMENTAL TO SCHEDULED SERVICES AND SHOULD BE CONSIDERED SUPPLEMENTAL AS WELL AS LIMITING AIRCRAFT TO NARROW-BODIES PLANES. WHEN USDEL AGAIN PROTESTED, SOVIETS AGREED TO RECONSIDER CHARTER PROVISIONS WITHIN CONTEXT ON PROGRESS MADE ON SCHEDULED SERVICES.

12. US DEL POINTED OUT THAT DATES RELATING TO FREQUENCY LEVELS DIFFERED IN US AND USSR PROPOSALS AND THAT SOVIET DRAFT WOULD ALLOW AEROFLOT TO INCREASE ITS FREQUENCIES
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THREE WEEKS BEFORE PAN AM. WHEN SOVIETS TRIED TO SAY USE OF B-747'S WOULD COMPENSATE, US DEL NOTED THAT FOR A PERIOD IN 1980 PAN AM WOULD BE OPERATING TWO FLIGHTS

AND AEROFLOT HAVE SEVEN.

13. SOVIETS GENERALLY ACCEPTED US PARA 8(A) BUT WANTED TO USE THE PERCENTAGES FOR LIMITATION OF CARRIAGE THEY HAD SUBMITTED EARLIER, AS WELL AS TO ADD PROVISIO FOR AIRLINE WITH LESSER SHARE TO INCREASE TRAFFIC. THEY AGREED WITH US PARA 8(E). RE 8(F), SOVIETS FAVORED A PENALTY OF ONE VICE TWO FREQUENCIES LOSS AND THEY OFFERED TO ACCEPT PARA 2 IN US CHARTER UNDERSTANDING IF OBLIGATIONS ON USSR WERE REMOVED IN US PARA 8 (B). US MAINTAINED

THAT USSR MUST ACCEPT OBLIGATIONS IF FORMULA IS TO WORK.

14. US DEL SUGGESTED NEW LANGUAGE FOR ARTICLE 14 QUESTION: QUOTE: THE CONTRACTING PARTIES AGREE THAT THE PROVISION OF ARTICLE 14 WILL HENCEFORTH BE APPLICABLE EUQLLY TO AGREED SERVICES AND TO OTHER SERVICES OF THE DESIGNATED AIRLINES. UNQUOTE. SOVIETS RESPONDED THAT THEY WISHED TO RENUMERATE ALL THE LIMITATIONS, INSTEAD. US DEL SAID THIS WAS FINE BUT MAIN QUESTION MUST BE ADDRESSED BEFORE ANY NEW AGREEMENT COULD BE REACHED. SOVIETS INSISTED THEY HAD NO INSTRUCTIONS TO DISCUSS ARTICLE 14 AND WANTED TO MERELY LIFT RESTRICTIONS, NOTING SOVIET SIDE HAS ALREADY LIFTED SOME OF ITS RESTRICTIONS. US DEL CLOSED DISCUSSION BY SAYING IT WOULD RECOMMEND TO ITS GOVERNMENT THAT NOTES BRINGING INTO EFFECT ANY NEW AVIATION OPERATIONS NOT BE SIGNED UNLESS THERE IS ALSO AN EXCHANGE OF NOTES CONTAINING US LANGUAGE ON ARTICLE 14.

15. IN EFFORT TO BREAK IMPASSE, US DEL AT THIS POINT MADE "FINAL OFFER". UNDER US PROPOSAL, FREQUENCY LEVELS WERE AMENDED TO ALLOW AEROFLOT THREE FLIGHTS IN SUMMER
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1977. THE SEASONS WERE TO BE AS SPECIFIED AS IN US DRAFT. PARA 5(B) WAS TO BE AMENDED THAT IF AGREEMENT IS REACHED TO ALLOW THREE FLIGHTS IN THE WINTER, THE PARTY WITH WIDE-BODIES AIRCRAFT AT ITS DISPOSAL COULD USE TWO SUCH PLANES. THE PERCENTAGES IN PARA 8(A) WERE TO BE 100, 50, 30, 25. US WAS PREPARED TO DELTE PARA 8(D) AND SUBSTITUTE "IF US DESIGNATED AIRLINE, IN COOPERATION WITH SOVIET AGENCIES DOES NOT ACHIEVE THE LEVELS OF CARRIAGE FORESEEN IN SUB-PARAGRAPH (B) ABOVE DURING A TWELVE-MONTH PERIOD, THE PERCENTAGE SHOWN IN SUB-PARAGRAPH (A) ABOVE FOR THE SAME TWELVE-MONTHS PERIOD SHALL BE INCREASED BY ONE-HALF THE DIFFERENCE IN PERCENTAGE POINTS BETWEEN THE PERCENTAGE INCREASE ACHIEVE AND THE PERCENTAGE INCREASE FORESEEN IN SUB-PARAGRAPH (B) ABOVE, BUT IN NO EVENT MORE THAN FIVE

PERCENTAGE POINTS." IN PARAGRAPH 8(F), THE PENALTY WAS TO BE ONLY ONE FREQUENCY FOR THE YEAR ENDING APRIL 1978, BUT THEREAFTER WAS TO BE TWO. US VIEWS RE CHARTERS REMAINED FIRM. PARA 8(D) PROVIDED THE NECESSARY LINKAGE BETWEEN PARAS 8(A), (B) AND (C).

16. THE SOVIETS REJECTED US DEFINITION OF THE SEASONAL PERIODS, THE TWO B-747 FREQUENCIES IN THE WINTER, THE US PROPOSED PERCENTAGES, US CHARTER PROPOSAL, AND THE MODIFIED PARA 8(D). THEY STATED USE OF B-747 WAS ONLY "CONCESSION" THEY WERE TO MAKE. US DEL THEN WITHDREW ITS FINAL OFFER SINCE SOVIETS WERE NOT WILLING TO RECIPROCATE.

17. MEETING CONCLUDED WITH UNDERSTANDING THAT SOVIETS WOULD CONTACT US DEL IF THERE WAS REASON TO CONTINUE DISCUSSIONS MARCH 26.

18. SOVIETS DID NOT REQUEST CONTINUATION OF TALKS.
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Message Attributes

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